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**Remarks** begin on page 13 of this paper.

## **REMARKS**

### **A.     Objection to Specification**

In the Office Action mailed on February 12, 2004, the brief descriptions of several drawings were objected to because of informalities. Applicants have corrected the description of Fig. 61 and Fig. 75 in a manner suggested by the Office Action. Thus, Applicants respectfully request the Examiner to withdraw the objection to the specification.

### **B.     35 U.S.C. § 103**

Claims 2-14, 16 and 102-105 were rejected under 35 U.S.C. § 103 as being obvious in view of U.S. Patent No. 5,901,513 to Mollenkopf ("Mollenkopf") and further in view of U.S. Patent No. 5,544,593 to Canfield et al. ("Canfield") and U.S. Patent No. 5,754,995 to Behrendt ("Behrendt") and the ordinary skill in the art. Claims 17-21 and 106-114 were rejected under 35 U.S.C. § 103 as being obvious in view of Mollenkopf and further in view of Canfield and U.S. Patent No. 5,906,420 to Rozier et al. ("Rozier"), Behrendt and the ordinary skill in the art. Applicants respectfully traverse the rejections and request the Examiner to withdraw the pending rejections in light of the following remarks.

#### **1.     Claims 2-14, 16 and 102-105**

Claims 2-14, 16 and 102-105 are patentable because none of the references teaches or suggests "a J-shaped bracket attached to said first floor stanchion and said second floor stanchion."

The Office Action asserts that it would have been obvious to have modified Mollenkopf with stanchions having a trapezoidal shape in view of Behrendt, and with brackets having a J-shape for supporting wires in view of Canfield et. al. Applicants traverse this rejection for reasons similar to those given in their Amendment filed on November 6, 2003, the entire contents of which are incorporated herein by reference. In that Amendment, Applicants submitted that (i) there was no motivation to modify Mollenkopf with Canfield; (ii) Canfield did not disclose the recited J-shaped bracket; and (iii) Mollenkopf and Canfield implicitly teach away from changing the stanchions to the trapezoidal shape disclosed in Behrendt. Each of these

points will be addressed below.

In the present Office Action, it was conceded that Mollenkopf failed to disclose either an adjustable worksurface, the recited J-shaped bracket or trapezoidal stanchions. Canfield was relied on for altering Mollenkopf to include an adjustable worksurface and a J-shaped bracket. Applicants traverse this combination. In particular, the Office Action asserted that the trough 86 and the bracket 155 of Canfield are attached to the sidewall 28 of the upright/stanchion 11A.

Claim 14 recites “a J-shaped bracket attached to said first floor stanchion and said second floor stanchion.” In contrast, the trough 86 and a bracket 155 disclosed in Canfield are not attached to the uprights 11A, 11B (i.e., stanchions). Canfield discloses that “trough 86 includes a flange 151 which fits into an elongated opening 152 formed in the modesty panel 18, for supporting the trough on the modesty panel.” (Canfield, Col. 8, lines 57-60 and FIG. 23). In addition, the mounting brackets 155 are used for mounting the trough 86 to the modesty panel 18 via screws. (Canfield, FIG. 24 and Col. 8, lines 63-65). Canfield discloses that “[t]he horizontal panel 155B has a bent down tab 155C that fits over the bottom of the opening 84 in the upright sidewall 28.” Col. 8, line 67-Col. 8, line 2. There, the tab 155c of the bracket 155 merely rests on the sidewall 28 and is not attached to the uprights. Thus, Canfield does not disclose attaching the trough 86 to either of the uprights 11A, 11B.

In view of the fact that Applicants have provided specific citations to Canfield showing that there is no attachment between the trough 86 and the uprights 11A, 11B, Applicants demand the Examiner identify in the next Office Action where Canfield discloses the recited attachment. If no such identification is made, then it shall be deemed as evidence that there is no support in Canfield for the alleged attachment and, thus, the rejection is improper.

It is noted that the Office Action has implied that there is motivation to combine Canfield’s trough with Mollenkopf due to the fact that Mollenkopf makes mention to Canfield in its Specification. However, Mollenkopf does not refer to the trough or bracket disclosed in Canfield, but only refers to cantilever foot pedestal support member 16 and uprights formed in two interlocking sections. Mollenkopf is silent as to using the recited J-shaped bracket. Mollenkopf, Col. 2, lines 45-56.

Applicants traverse the rejection for the additional reason that neither the trough 86 nor the bracket 155 has the claimed J-shape as shown by Figures 23-24 of Canfield.

In addition, the Office Action asserted that the hollow uprights of Mollenkopf and Canfield did not indicate that Mollenkopf and Canfield taught away from having the recited trapezoidal shape<sup>1</sup>. Applicants submit that the Office Action does not fully address the argument of Applicants. Applicants submitted the argument that if the uprights of Mollenkopf and Canfield are changed to have the trapezoidal shape, members which are adjacent the uprights, such as the cantilever foot pedestal support members and the support cantilever desk support member, need to have significant changes in their shapes and designs. Specifically, Fig. 7 of Canfield illustrates the engagement between the upright 11A and the cantilevered desk support member 16. If the upright 11A is changed to have a trapezoidal shape, the engagement between the upright 11A and the support member 16 needs to be changed in the design and/or possibly structure in order to comply with the trapezoidal shaped uprights. There is no motivation in Mollenkopf and Canfield to make such a design or structural change. Further, a person of ordinary skill cannot simply replace, without doing more, the uprights of Mollenkopf and Canfield with the trapezoidal shaped uprights disclosed in Behrendt because of the design or structural change. It is noted that the above assertion that changes in design and structure would be needed were presented in Applicants' Amendment of November 6, 2003 and has not been disputed in the present Office Action. Accordingly, it is not an obvious matter of design choice to use the trapezoidal shaped stanchions as recited in claim 14 in Mollenkopf and Canfield.

Thus, there is no motivation or suggestion to modify Mollenkopf with the trough/bracket of Canfield and further modify the uprights of the combination of Mollenkopf and Canfield to have the trapezoidal shape. In addition, even if Mollenkopf may be combined with Canfield, Canfield does not teach the J-shaped bracket attached to the stanchions, as recited in claim 14.

Based on the above, none of the cited references teaches or suggests the desk system

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<sup>1</sup> The present Office Action also asserts that the stanchions disclosed in Applicants' Specification are hollow. Applicants submit that it is irrelevant for the issue at hand whether the stanchions disclosed in Applicants' Specification are hollow or not. Applicants' claimed invention is silent regarding the stanchions being hollow. The issue here is whether there is a motivation to modify the uprights of Mollenkopf and Canfield with the trapezoidal shape. That the stanchions disclosed in Applicants' Specification are hollow does not relate to the issue at hand.

defined in claim 14, either individually or in combination. Claims 2-13, 16 and 102-105 depend from claim 14 and are patentable for at least the same reason.<sup>2</sup> Applicants respectfully request the Examiner to withdraw the rejection to claims 2-14, 16 and 102-105.

## **2. Claims 17-21 and 106-114**

Claims 17-21 and 106-114 are patentable under 35 U.S.C. § 103(a) because the prior art does not teach or describe “a J-shaped bracket attached to said first floor stanchion and said second floor stanchion; and a second bracket attached to said first floor stanchion and said second floor stanchion.”

The Office Action asserted that it would have been obvious to one of skill to modify Mollenkopf with a trough/bracket disclosed in Canfield and further modify the combination of Mollenkopf and Canfield with two wire management brackets disclosed in Rozier for the purpose of physically separating electrical power and data cables to avoid electrical interference. The Office Action also asserted that the shape of an element is considered an obvious matter of design choice. Applicants respectfully traverse this rejection as follows.

As discussed in the foregoing Section B. 1, there is no motivation to modify Mollenkopf so that its uprights are attached to the trough/bracket of Canfield and the uprights of Mollenkopf have a trapezoidal shape as suggested by Behrendt. Rozier does not cure the deficiencies of Mollenkopf, Canfield and Behrendt since it does not suggest modifying Mollenkopf to have its uprights be trapezoidal in shape or attached to the trough of Canfield. Without such suggestion, the rejection is improper.

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<sup>2</sup> Regarding claims 6 and 7, Official Notice was taken that an obtuse angle is approximately 93.5°. Official Notice without documentary evidence is appropriate in a limited circumstance where “the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well known.” MPEP § 2144.03 at 2100-131. Applicants submit that the recited obtuse angle of claims 6 and 7 is neither well-known fact nor common knowledge, which is capable of instant and unquestionable demonstration as being well-known. Accordingly, Applicants request that the Office Action either prove that the recited obtuse angle is capable of instant and unquestionable demonstration as being well-known or provide documentary support in the next Office Action.

The rejection is improper for the additional reason that none of the references discloses the recited second bracket. The Office Action conceded that neither Mollenkopf, Canfield nor Behrendt teaches the recited second bracket, but it asserted that Rozier teaches the second bracket. Rozier does not teach or suggest the J-shaped bracket and the second bracket recited in claim 17. Rozier discloses an integrated storage unit having two trays 31, 34. *See* Figures 2 and 3. In Rozier, two trays 31, 34 are attached to a back surface of a storage cabinet. The trays 31, 34 are not attached to the first and the second stanchions as recited in claim 17.

In addition, there is no motivation to modify either Mollenkopf or Canfield to include the two trays of Rozier. In Canfield, the trough/bracket is attached to the panel of the desk, and in Rozier, the two trays are attached to the back surface of the storage cabinet. The motivation or suggestion to modify Mollenkopf and Canfield with Rozier comes improperly from Applicants' disclosure rather than the cited references. Reconstruction for the purpose of any judgment on obviousness is proper if it "does not include knowledge gleaned only from applicant's disclosure." MPEP § 2145 at 2100-156. Even if Mollenkopf may be modified with the trough/bracket of Canfield and the two trays of Rozier, such combination does not teach or suggest all limitations of claim 17. In particular, the combination does not teach the J-shaped bracket and the second bracket that are attached to the first and the second stanchions.

Thus, the rejection of claim 17 and its dependent claims 18-21 and 106-114 is improper and should be withdrawn.

Please note that claim 17 has been amended to correct a clerical error and so is not being presented for reasons of patentability as defined in *Festo Corporation v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd.*, 535 U.S. 722 (2002).

### **C. New Claims 115-124**

New claims 115-119 depend directly or indirectly on claim 14 and so are patentable for at least the same reasons given above in Section B.1. Claims 119-124 depend directly or indirectly on claim 17 and so are patentable for at least the same reasons given above in Section B.2. Claims 115-119 are patentable for the additional reasons that they each cite a removable rear

panel and the particular engagement between the stanchions and the rear panel. A modular desk having the removable rear panel can accomplish stability along with flexibility including at least “where the modular desk 100 is converted from an open plan to a closed plan where it has its back facing a permanent wall, ... the upper rear panel 166 are removed.” Page 16, lines 15-18 of the specification. Claim 116 is patentable for the additional reason that it recites that even if the removable rear panel is removed, the J-bracket is still attached to the first and the second stanchions. In contrast, removal of the rear panel 18 of Canfield would cause the trough 86 to be removed since it is attached to panel 18 via the bracket 155.

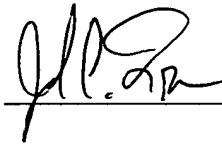
Claims 119-124 are patentable for additional reasons that they each cite an upper front panel; a lower front panel; and the second bracket that is exposed at the open position and hidden at the closed position by the upper front panel. Thus, claims 119-124 are patentable and should be allowed.

Please note that new claims 115-124 are being presented to provide additional coverage for a modular desk system and so are not being presented for reasons of patentability as defined in *Festo*.

**CONCLUSION**

In view of the arguments above, Applicants respectfully submit that all of the pending claims 2-14, 16-21 and 102-124 are in condition for allowance and seek an early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, he is respectfully requested to contact the undersigned attorneys at (312) 321-4200.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J.C. Freeman", is written over a horizontal line.

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